

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, ESTABLISHING ARTICLE IX (TOWING REGULATIONS) OF CHAPTER 90 (TRAFFIC AND VEHICLES) OF THE FRISCO CODE OF ORDINANCES; PROVIDING DEFINITIONS; PROVIDING FOR NON-CONSENT TOWING BY THE CITY; ESTABLISHING RATES CHARGED BY WRECKER SERVICES; AUTHORIZING AN AGREEMENT FOR WRECKER SERVICES FOR NON-CONSENT TOWS; PROVIDING FOR INSPECTION BY THE CITY; ESTABLISHING DISTANCE REQUIREMENTS FOR PRIVATE PROPERTY TOWS; ESTABLISHING A VEHICLE STORAGE FACILITY'S DUTY TO REPORT AFTER ACCEPTING AN UNAUTHORIZED VEHICLE; REQUIRING REPORTS TO THE CITY POLICE DEPARTMENT OF TOWING PURSUANT TO A LIENHOLDER'S REQUEST; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Frisco, Texas ("City") to adopt an ordinance establishing regulations to allow the City Police Department to enter into agreements with towing companies to establish a rotation list for non-consent tows in the City; and

WHEREAS, the City Council has investigated and determined that by regulating non-consent tows in the City, the City Police Department shall be able to minimize the hazards and dangers inherent in the involuntary removal of motor vehicles in the City; and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of Frisco to regulate the distance that a motor vehicle may be towed from private property in the City; and

WHEREAS, the City Council finds that the proposed regulation governing persons performing non-consent tows from private property is safety-related or otherwise falls within the 49 U.S.C. § 14501(c) exception; and

WHEREAS, the City Council believes that the proposed safety-related regulation for non-consent tows would promote the public safety of both visitors and citizens of the City by contributing to a decrease in the distance visitors and citizens must travel to re-acquire their motor vehicle after being towed; and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of Frisco to require a tow truck operator to report to the City Police Department when a tow is made pursuant to a lienholder's request;

WHEREAS, the City Council finds that requiring a tow truck operator to report a tow made pursuant to a lienholder's request will decrease the need to use City Police Department resources to locate motor vehicles that owners believe have been stolen, when in reality the motor vehicles were repossessed; and

WHEREAS, the City Council has investigated and determined that the above referenced regulations are necessary to protect the health, life and property of the citizens in the City as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Establishing Article IX (Towing Regulations), Chapter 90 (Traffic and Vehicles), of the Frisco Code of Ordinances. Article IX (Towing Regulations), Chapter 90 (Traffic and Vehicles), of the Frisco Code of Ordinances is hereby established as follows:

“Section 90-226. Purpose. To protect the health, safety and general welfare of the residents of the City and to preserve and protect functionality and integrity of the City's roads, streets and highways by the regulation of vehicle tow services in the City.

Section 90-227. Definitions. For purposes of this Article, when not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. Words not defined in this Article shall be given their common and ordinary meaning.

- A. *Consent Tow* means any tow of a motor vehicle by the owner or operator of the motor vehicle or by a person who has possession, custody, or control of the motor vehicle. The term does not include an incident management tow or a private property tow.
- B. *Incident Management Tow* means any tow of a motor vehicle in which the tow truck is summoned because of a traffic accident or to an incident.
- C. *Motor Vehicle* means a vehicle subject to registration under the

Certificate of Title Act, Texas Transportation Act, Chapter 501, as amended, or any other device designed to be self-propelled or transported on a public highway and/or which may be attached to a trailer or other similar device.

- D. *Non-Consent Tow* means any tow of a motor vehicle that is not a consent tow, including an incident management tow and a private property tow.
- E. *Police Department* means the Chief of Police, supervisors, police officers and dispatchers of the City Police Department only.
- F. *Private Property Tow* means any tow of a motor vehicle authorized by a parking facility owner without the consent of the owner or operator of the motor vehicle.
- G. *Vehicle Storage Facility* means a garage, parking lot, or other facility owned or operated by a person other than a governmental entity for storing or parking 10 or more Motor Vehicles per year.
- H. *Wrecker* or *Tow Truck* means a truck-mounted crane or A-frame, with either power of mechanical boom and joist, or winch and hoist, or any combination thereof, which motor vehicle is commonly used to move, tow and convey wrecked and disabled motor vehicles, vehicles, trailer or semitrailers, or both, from the scene or site of a wreck, motor vehicle accident or collision and has a permit issued by the Texas Department of Licensing and Regulation.
- I. *Wrecker Contractor* means a wrecker operator who has entered into an agreement for services with the City for police-directed tows.
- J. *Wrecker Operator* or *Tow Truck Operator* means any person who owns or operates a wrecker within the corporate limits of the city, who is regularly engaged in the business of repairing, rebuilding, storing, wrecking, selling or trading wrecked and disabled motor vehicles, vehicles, trailers or semitrailers, or both and has a license issued by the Texas Department of Licensing and Regulation.

Section 90-228. Providing for Non-consent Towing by the City. No person shall provide Wrecker service to the City without first executing an agreement therefore with the City. Provided, however, nothing in this section shall prohibit the City from utilizing the services of noncontract Wreckers for towing services originating outside the corporate limits of the City.

Section 90-229. Maximum Rates. Maximum rates for Wrecker services

provided to the City shall be specified in the agreement and shall comply with applicable state law.

Section 90-230. Agreement for Wrecker Service. The City shall have the power and authority to prepare requirements for Wrecker Operators, which shall be set forth in the agreement described in Section 90-228. Upon execution of the agreement, the Wrecker Contractor shall respond upon request of the City to the scene or site of any wreck, Motor Vehicle accident or collision occurring within the corporate limits of the City, or to any other scene or site at which the services of a Wrecker are required by the City.

Section 90-231. Inspection. The Police Department shall have authority to inspect all Wreckers belonging to a Wrecker Contractor to ensure the Wrecker Operators' continued compliance with the terms of the Agreement and state law.

Section 90-232. Dispatch by Police Generally. It shall be unlawful for any Wrecker Operator or driver to proceed to the scene or site of a wreck, Motor Vehicle accident or collision, or follow any ambulance or police car which is traveling in response to a report of a wreck, Motor Vehicle accident or collision, unless such Wrecker has been duly legally dispatched to the scene or site by the City or has been requested to come to the scene by a party involved in the wreck, Motor Vehicle accident or collision.

Section 90-233. Promulgation of Additional Requirements. The Chief of Police shall have authority to promulgate other reasonable rules, regulations and requirements as may become necessary to ensure that the Wrecker Contractor protects the Motor Vehicle and their contents.

Section 90-234. Private Property Tows. A Wrecker Operator that intends to remove a Motor Vehicle from a parking facility in accordance with Chapter 684, Texas Transportation Code, may not tow a Motor Vehicle to a Vehicle Storage Facility more than fifteen (15) miles outside of the City corporate limits.

Section 90-235. Tow Truck Operator and Vehicle Storage Facility's Duty to Report After Accepting Unauthorized Vehicle. A Tow Truck Operator towing a Motor Vehicle and a Vehicle Storage Facility accepting a Motor Vehicle that is towed under this chapter shall, within thirty (30) minutes after towing from the parking facility or receiving the Motor Vehicle, report to the City Police Department in which the parking facility is located:

- (1) A general description of the Motor Vehicle;
- (2) The state and number of the Motor Vehicle's license plate, if any;
- (3) The vehicle identification number of the Motor Vehicle, if it can be ascertained;
- (4) The location from which the Motor Vehicle was towed; and

- (5) The name and location of the Vehicle Storage Facility where the Motor Vehicle is being stored.

The report required by this section must be made by telephone or delivered personally or by facsimile.

Section 90-236. Reports to City Police Department of Towing Pursuant to Lienholder's Request.

- (a) Whenever a Wrecker Operator tows, transports or otherwise takes a Motor Vehicle pursuant to a request by a lienholder incident to a lawful repossession, the Wrecker Operator taking the Motor Vehicle shall make a verbal report to the City Police Department within thirty (30) minutes of the time of picking up the Motor Vehicle, which shall include the following information:
 - (1) The license plate number of the repossessed Motor Vehicle;
 - (2) The Motor Vehicle identification number of the repossessed Motor Vehicle;
 - (3) The year, make, model and color of the repossessed Motor Vehicle;
 - (4) The name, address and telephone number of the lienholder who requested the taking of the Motor Vehicle;
 - (5) The state license plate number of the auto wrecker used, and the name and Texas drivers license number of the Wrecker driver;
 - (6) The location from which the Motor Vehicle was towed, the date and time that the Motor Vehicle was picked up and the name, street address and telephone number of the place to which the Motor Vehicle was taken for storage.
- (b) The Chief of Police shall designate a telephone number for the filing of oral reports under this section.

Section 90-237-90-300. Reserved."

SECTION 3: Penalty Provision. Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00). The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 4: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 5: Effective Date. This Ordinance shall become effective from and after its passage and publication as required by the City Charter and law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, on this _____ day of _____, 2009.

Maher Maso, Mayor

**ATTESTED AND
CORRECTLY RECORDED:**

APPROVED AS TO FORM:

Jenny Page, City Secretary

Abernathy Roeder Boyd & Joplin P.C.
Courtney A. Kuykendall, City Attorney

DATE(s) OF PUBLICATION: _____, **FRISCO ENTERPRISE**